

06-07-06

PTO/SB/64 (10-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Alfred MARGARYAN

Application No.: 10/054,328

Art Unit: 1755

Filed: 21 JAN 2002

Examiner: BOLDEN, Elizabeth A.

Title: Fluorophosphate glass and method for making thereof

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JUN 12 2006

OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination and check# 1052 (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____
☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

06/08/2006 RFEKADU1 00000001 10054328

01 FC:2453

750.00 0P

DAE
\$
#10

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

06 Jun 2006

Date

PETER GANJIAN

Typed or printed name

43991

Registration Number, if applicable

3146 NORTH VERDUGO ROAD

Address

1-818-248-1465

Telephone Number

GLENDALE, CA 91208-1665

Address

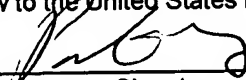
Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: RCE; Cert. Mailing; assignment & cover; power of attorney; appropriate fees;**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

06 Jun 2006

Date



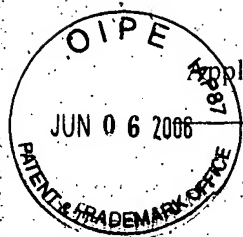
Signature

PETER GANJIAN

Typed or printed name of person signing certificate

Express Mail:

EQ 433981514 US



Application No.: 10/054,328

Fluorophosphate glass and method for making thereof

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/054,328
5 Filing Date : 20 JAN 2002
First Named Inventor : Alfred A. MARGARYAN
Assignee : NANO TEKNOLOGIES, LLC
10 Art unit : 1755
Examiner : Elizabeth A. BOLDEN
15 Office Action Mailing Date : 01 JUL 2004

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OFFICE OF PETITIONS

Title: **FLUOROPHOSPHATE GLASS AND METHOD FOR MAKING THEREOF**

SUPPLEMENTAL STATEMENT ESTABLISHING UNINTENTIONAL DELAY

UNDER 37 CFR §1.137(b)

Attention: Office of Petitions
25 **Mail Stop: Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TO THE COMMISSIONER FOR PATENTS:

30 The following is a supplemental statement establishing unintentional delay under 37 CFR §1.137(b). This supplemental statement is for an adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional.

35 My name is Jack Illare, I was a passive investor with an investment of one million dollars into NANO Teknologies, LLC, the assignee of the above referenced application, to fund the company and to pay for the work done by my colleagues as described below.

40 Today, I am the only investor and only director of NANO Teknologies, LLC. I need your assistance in correcting acts of gross negligence, fraud, and embezzlement that occurred due to the mismanagement and carelessness of then sole director and president of NANO Teknologies, LLC, Dr. Lonnie Lindsey.

Dr. Lindsey's responsibilities included the management of the company's day-to-day activities and the protection and maintenance of the company's assets including the company intellectual property.

NANO Teknologies, LLC hired a well-known material scientist, Dr. Alfred Margaryan on November 1, 2000 to conduct research and development of next generation optical materials. While employed at NANO Teknologies, LLC, Dr. Margaryan became the inventor for and synthesized the fluorophosphate glass system that is the subject of the patent application 10/054,328, which was filed on January 21, 2002.

On May 11, 2001 Dr. Margaryan signed an addendum to employment agreement and employment invention agreement with NANO Teknologies, LLC with an effective date of October 2, 2000. A copy of this employment agreement is attached herein for your information, as exhibit "A."

In accordance with his employment agreement, Dr. Margaryan had agreed to execute certain assignments transferring to NANO Teknologies, LLC all of his rights, title, and interest in inventions.

Regrettably, after the development of the invention, Dr. Lindsey fired Dr. Margaryan from NANO Teknologies, LLC on April 28, 2002. Please see attached copy of the Email that Dr. Lindsey forwarded to Dr. Margaryan regarding a layoff notice, as exhibit "B."

However, due to the above mentioned signed employment agreement, Dr. Margaryan was later compelled to sign an assignment agreement with NANO Teknologies, LLC on June 23, 2003, which released him from all his rights, title, and interest with respect to patent application 10/054,328. The assignment agreement signed by Dr. Margaryan was recorded with the USPTO on July 3, 2003, and was accorded the reel number: 014237 and frame number: 0428. A copy of the assignment is attached herein for your records, as exhibit "C."

Accordingly, actions, inactions or intension of Dr. Margaryan, who is the applicant and the inventor for the application 10/054,328, are irrelevant under 37 CFR 1.137(b).

The only party relevant under 37 CFR 1.137(b) is Dr. Lonnie Lindsey, who committed fraud, embezzled well over \$400,000.00 invested in the company, falsified, concealed, covered daily operations of the company, and did not continue the prosecution of intellectual property matters of NANO Teknologies, LLC.

The following are relevant events to the best of my knowledge that led to unintentional abandonment of the applications 10/054,328 for which we are requesting a revival under 37 CFR 1.137(b).

For all intellectual property proceedings, Dr. Lindsey always falsely assured me that all intellectual property matters with respect to patent application 10/054,328 and, in fact, any intellectual property matter related to NANO Teknologies, LLC, was moving forward with no problems. That is, in response to the numerous inquiries about the status of all intellectual property matters by me, Dr. Lindsey made falsified statements, concealed and covered all patent matters from me, and as is obvious by now, grossly mismanaged all intellectual property matters

with regards to their status. In other words, Dr. Lindsey abused my trust, and lied by falsely assuring me that all intellectual property matters before the USPTO were proceeding without problems, and that we should have a patent in the near future.

5 Of course, I did request that Dr. Lindsey to provide me with all of company paperwork. Regrettably, he maintained (conveniently) that he had misplaced the corporate minutes and books (further explained below). However, regardless of the company paperwork (or lack thereof), he always falsely maintained that the status of the patents were up to date.

10 Patent attorney Dennis W. Beech was Nano Teknologies' representative before the USPTO for patent application 10/054,328. He forwarded all correspondence for all patent matters to both Dr. Lindsey and Dr. Margaryan because as the inventor of the glass, Dr. Margaryan was also notified of the requests from the USPTO. It should be noted that to the best of my knowledge, attorney
15 Dennis W. Beech was kept in the dark and was not aware of the fact that Dr. Margaryan was fired by Dr. Lindsey. It should also be noted that Dr. Lindsey never gave me any information regarding attorney Dennis W. Beech. He just said he had an attorney working on the case, and that I should not worry.

20 Regrettably, unbeknownst to me, Dr. Lindsey did not respond to any correspondence from attorney Dennis W. Beech regarding Office Actions or any related patent matter from the USPTO. However, regardless of the fact that Dr. Margaryan was no longer an employee of NANO Teknologies, LLC, he kindly made several attempts to contact Dr. Lindsey to offer him his help regarding the patent application 10/054,328. Nonetheless, Dr. Lindsey failed to respond to both attorney Dennis W. Beech and Dr. Margaryan.

25 It should be noted that at that time, I had never met, nor was I ever introduced to Dr. Margaryan, nor attorney Dennis W. Beech. I was a mere passive investor. Accordingly, Dr. Margaryan did not know about me or the fact that I funded the company. That is one reason why despite his knowledge of the patent proceedings he never contacted and share with me what was occurring.
30 Of course, by then Dr. Margaryan was not even an employee of NANO Teknologies, LLC. It is now apparent that Dr. Lindsey purposefully kept Dr. Margaryan, attorney Dennis W. Beech, and I separate for the reasons below.

35 As stated above, I invested one million dollars into NANO Teknologies, LLC to fund the company. On or about January 24, 2002, Dr. Lindsey called and requested for more funds from me. His request caused me to realize and look into how much of the one million dollars of investment was actually spent. I learned that there was an accounting discrepancy of about \$400,000.00. I learned that \$400,000.00 of the one million dollars invested was missing. I obviously confronted Dr. Lindsey regarding this matter. He told me the funds were set aside for
40 chemicals and equipment. Of course, it was not until more than a year or so ago that I had found out that the missing \$400,000 was taken out and used to fund other companies in which Dr. Lindsey had an interest. Dr. Lindsey admitted that fact to me and a colleague that this was the case. Hence, he clearly embezzled the funds appropriated for the NANO Teknologies, LLC. This was the reason why Dr. Margaryan, Dennis W. Beech, and I were kept apart, and that Dr.
45 Lindsey kept everyone isolated from each other and never bothered to continue work with attorney Dennis W. Beech. In reality, it is my opinion that he was too busy trying to cover up the missing funds to bother with anything else, and was busy with his other companies.

Accordingly, by July 1, 2004 the patent application 10/054,328 for NANO Teknologies, LLC became abandoned due to lack of a reply to the Office Actions from the USPTO, which was clearly the fault of Dr. Lindsey for not responding to the numerous requests from Dr. Margaryan and attorney Dennis W. Beech (for the reasons mentioned above).

I asked for Dr. Lindsey's resignation in June of 2004 because of the missing funds mentioned above. However, at that time, I was still not aware of the fact that the application 10/054,328 was abandoned, and had no information with respect to the application and, in particular, I was not aware of the fact that the U.S. Patent Examiner Elizabeth A. Bolden had allowed one of the claims in that case.

I requested the contact information of Dr. Margaryan from Dr. Lindsey. Obviously, Dr. Lindsey was completely uncooperative, and disappeared from existence. It was only through partial company documents that I found about Dr. Margaryan, and tried to establish contact with him (who was fired by Dr. Lindsey on April 28, 2002). I believe Dr. Lindsey fled the United States in fear of getting sued or arrested. I later found out that Dr. Lindsey left the country, taking most of the corporate information and corporate records with him, making it impossible to obtain any further information regarding any matter, including patent application 10/054,328. In February of 2005, I was notified that due to health reasons Dr. Lindsey had passed away. All these facts together made it even more difficult and time consuming for me to gather all the necessary data and contact information to proceed with the prosecution of the patent application 10/054,328.

It was not until about September of 2004 that for the first time I established contact with Dr. Margaryan, who provided me with contact information about attorney Dennis W. Beech. I contacted (via telephone) attorney Dennis W. Beech (numerous times) both directly and through Dr. Margaryan, but he never responded. It is now apparent to me that it may have been due to confidential nature of patent law. As I indicated above, attorney Dennis W. Beech did know me, and only knew Dr. Lindsey and Dr. Margaryan in relation to the patent application 10/054,328.

It was not until several months ago that through my own personally attorney, and Dr. Margaryan's permission, that I made a formal request of attorney Dennis W. Beech to provide me with all information about the patent application 10/054,328. To my disappointment, I found out that the patent application 10/054,328 had been abandoned, despite the fact that claim 11 of that application was allowed.

We now have a new representative, and have instructed him to proceed with this petition under 37 CFR 1.137(b).

You are welcome to contact me at 1-772-538-1288 if you have any further questions or comments.

The undersigned hereby declare that all statements made herein of the party's own knowledge are true, all statements made herein on information and belief are believed to be true, and all statements made herein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the

penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom.

5



Jack Joseph Illare, III

June 2, 2006

Date

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STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 2nd day of June, 2006 by JACK J. Illare, III as managing member of Nano Teknologies, LLC, a State of Florida limited liability company, who is personally known to me or and did take oath.


Lisa M. Kovaleski

EXHIBIT-A

**ADDENDUM to
EMPLOYMENT AGREEMENT
and
EMPLOYMENT INVENTION AGREEMENTS**

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This Addendum to Employment Agreement and Employment Invention Agreement (the "Addendum") is made and entered into as of the 11th day of May, 2001 (the "Effective Date") by and between EXTREME TEKNOLOGIES ("Extreme"), a California entity and NANO TEKNOLOGIES, LLC ("Nano"), a Florida limited liability company, on the one hand, and ALFRED MARGARYAN ("Margaryan") on the other hand.

1. Extreme and Margaryan entered into an Employment Agreement and concurrent Employee Invention Agreement with each agreement effective as of October 2, 2000.
2. Nano is a subsidiary of Extreme which was organized and is operating under the laws of the State of Florida.
3. As part of his responsibilities under the above-referenced Employment Agreement and Employee Invention Agreement, Margaryan has agreed to execute certain assignments transferring to Nano all of his right, title and interest in two (2) patent applications, with the first an application for a "Laser Glass-Fiber Amplifier" and the second for a "Fluorophosphate Laser Glass" in the forms attached as Exhibits "A" and "B." It has been agreed by all parties that the two patent applications represent "Inventions" within the meaning of Paragraph 2 of the Employee Invention Agreement.
4. In executing this Addendum Nano hereby assumes all of the obligations of Extreme to Margaryan with regard to the two (2) assigned patent applications pursuant to the Employment Agreement and Employee Invention Agreement.
5. All of the remaining provisions of the Employment Agreement and Employment Invention Agreement referenced above shall remain in full force and effect, including, without prejudice to the generality, Paragraph 2 of the Employee Invention Agreement which provides for certain consideration based on revenues to be paid to Margaryan for each patent assignment.

IN WITNESS WHEREOF, the undersigned have considered this Agreement to be duly executed as of the date and year first above written.

EXTREME TEKNOLOGIES
"Extreme"

ALFRED MARGARYAN
"Margaryan"

NANO TEKNOLOGIES, LLC
"Nano"

EXHIBIT - B

Hotmail®

nanotek3@hotmail.com

Inbox | [Previous Page](#)

From: "Ashot Margaryan" <nanotek3@hotmail.com>
To: nanotek3@hotmail.com
Subject: Fwd: Layoff Notice
Date: Sun, 28 Apr 2002 21:20:03 -0700

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From: lonnie.lindsey@nanol.com
To: nanotek3@hotmail.com
CC: randy@cyber.net, lonnie.lindsey@nanol.com, Phil@cyber.net, jack@cyber.net
(Jack), jame@cyber.net
Subject: Layoff Notice
Date: Sun, 28 Apr 2002 12:20:37 EDT

TO: Dr. Alfred Margaryan
Ashot Margaryan
FROM: Lonnie Lindsey, President Extreme Teknologies, Inc.
Date: April 28, 2002

This will serve as your official notification of temporary suspension of employment with Extreme Teknologies, Inc., effective immediately.

This layoff is a result of the depletion of funds for your research project through Nanoteknologies, Inc. You each have performed your duties in an exemplary manner and exceeded our expectations of your performance. I join you in the deep disappointment on holding off on your most important research effort, but economic conditions since 9/11/01 and the availability of investment funds has left us no alternatives. We will continue to pursue funding sources and hope to renew your research efforts once we have secured adequate financing.

You both will be paid your normal salary through April 30, 2002 under this schedule:

Due to lack of funds at this time, here is the planned schedule for paychecks.

April 5, 2002 pay check will be available May 1, 2002
April 19, 2002 pay check will be available by May 15, 2002
Final paycheck will be available before May 30, 2002.

You may retain company equipment and supplies if you wish until such time as we resume research efforts or upon notice by me to return them to the office. You may retain the company credit card, but do not charge any further expenses.

Your health insurance will expire April 30, 2002. If you wish to continue your health insurance benefit, you may contact our insurance administrator to set up payment continuance.

We anticipate this layoff to continue for at least 120 days and perhaps permanently.
If we can secure funding, your employment will be reinstated.

It has been an honor to work with you. You both can be proud as I am of the job you did.

High regards,

Lonnie Lindsey
President,
Extreme Teknologies, Inc
NanoTeknologies, Inc.

EXHIBIT - C

**ASSIGNMENT FOR APPLICATION FOR
UNITED STATES PATENT**

Whereas:

INVENTOR: ALFRED A. MARGARYAN
ADDRESS: P.O. Box 1934, Glendale, CA 91209
COUNTRY: USA

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(hereinafter referred to as ASSIGNOR), has invented and own a certain invention entitled:

FLUOROPHOSPHATE GLASS AND METHOD FOR MAKING THEREOF

for which application for Letters Patent of the United States has been executed and filed with the United States Patent Office for which U.S. Patent Application No. 10/054,328 is currently pending,

Whereas:

NANO TEKNOLOGIES, LLC, as a limited liability company authorized to do business in the State of Florida, United States of America,

(hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in, to an under said invention and in, to and under Letters Patent or similar legal protection to be obtained therefore in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

Be it known that in consideration of the payment by ASSIGNEE to ASSIGNOR of the sum of one dollar (\$1.00), the receipt of which is hereby acknowledged, and for other good and valuable consideration, ASSIGNOR hereby sells, assigns and transfers to ASSIGNEE the full and exclusive right, title and interest to said invention in the United States and its territorial possessions and in all foreign countries and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute or reissue thereof or any legal equivalent thereof in a foreign country for the full term or terms for which the same may be granted.

ASSIGNOR hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this

assignment and sale;

ASSIGNOR further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said application, said invention and said Letters Patent and legal equivalents in foreign countries as may be known and accessible to ASSIGNOR and will testify as to the same in any interference or litigation related thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said application, said invention and said Letters Patent and said equivalents thereof in any foreign country which may be necessary or desirable to carry out the purposes thereof.

IN WITNESS WHEREOF, I have hereunto set hand and seal this

Date: 6.23.03

Alfred Margaryan

State of California

County of LOS ANGELES

On JUNE 23, 2003, before me,

TONY H. NIKOLIAN, personally appeared ALFRED MARGARYAN personally known to me - or ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

SUBSCRIBED AND SWORN TO BEFORE ME

WITNESS my hand and official seal.

Signature of Notary: Tony H. Nikolian

